

Office Supreme Court U.S.  
**FILED**  
APR 15 1901  
JAMES H. McKENNEY,  
Clerk.

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**In the Supreme Court of the United States.**

OCTOBER TERM, 1900.

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FRANK R. MOORE, AS UNITED STATES  
collector of internal revenue, first  
district, State of New York, defend-  
ant below and plaintiff in error,  
*against*

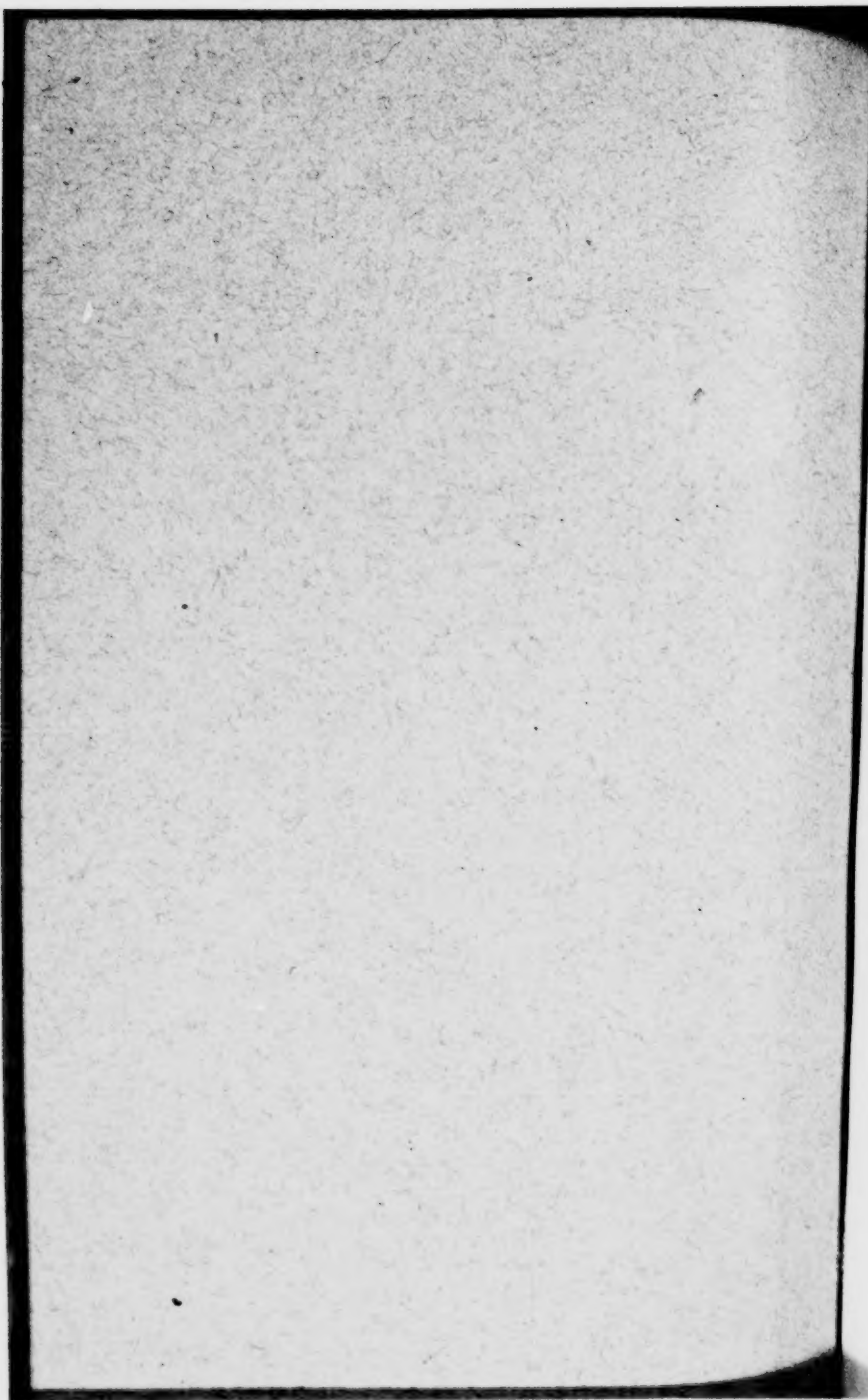
MAX RUCKGABER, SR., AS SOLE EXECU-  
tor of the last will and testament of  
Louisa Augusta Ripley-Pinede, de-  
ceased, plaintiff below and defend-  
ant in error.

No. 295

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**MOTION TO ADVANCE.**

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# In the Supreme Court of the United States.

OCTOBER TERM, 1900.

FRANK R. MOORE, AS UNITED STATES collector of internal revenue, first district, State of New York, defend- ant below and plaintiff in error,	}	No. 628.
<i>against</i>		
MAX RUCKGABER, SR., AS SOLE EXECU- tor of the last will and testament of Louisa Augusta Ripley-Pinede, de- ceased, plaintiff below and defend- ant in error.	}	

## MOTION TO ADVANCE.

This case is before the court on questions certified by the United States circuit court of appeals for the second circuit.

And now comes the plaintiff in error by the Solicitor-General and moves the court to advance the cause on the docket and assign the same for argument during the next term of the court in October, 1901.

This action was brought by the defendant in error in the circuit court of the United States for the eastern district of New York to recover the amount paid by him to the collector under protest as a tax upon legacies and distributive shares assessed under the

alleged authority of the twenty-ninth and thirtieth sections of the war-revenue law of June 13, 1898. The collector demurred, the demurrer was overruled, and a final judgment entered against the collector for the amount claimed, with interest and costs. The collector thereupon sued out a writ of error in the United States circuit court of appeals for the second circuit. The cause came on for argument before that court, and the judges thereupon certified the following questions of law to this court:

1. Can the personal property of a nonresident testatrix, which property consists of a claim in account current against residents of the United States, bonds and coupons of American corporations, and a certificate of stock in an American corporation, actually located within the United States at the time of her death, September 25, 1898, be deemed to have a situs in the United States for the purpose of levying a tax or duty upon the transmission or receipt thereof under sections 29, 30, and 31 of the act of Congress entitled "An act to provide ways and means to meet war expenditures, and for other purposes," approved June 13, 1898?

2. Was the transmission or receipt of the said personal property of the nonresident testatrix, which was actually located in the United States at the time of her death, September 25, 1898, subject to taxation under sections 29, 30, and 31 of the act of Congress entitled "An act to provide ways and means to meet war expenditures, and for other purposes," approved June 13, 1898?

This case is one which involves a matter of general public interest. The liability of a large number of other estates of nonresident decedents to the payment of this tax depends upon the answer to be given to these questions, and until the decision of this court thereon said estates can not be settled and distributed. A large amount of revenue to which the Government believes that it is entitled is meantime withheld under the decision of the circuit court, reported as *Ruckgaber v. Moore* (104 Fed. Rep., 947).

It is, for the reasons aforesaid, respectfully submitted that this case may properly be advanced for hearing early in the next term.

JOHN K. RICHARDS,  
*Solicitor-General.*

I concur in the above application.

FRED W. HENRICH,  
*For Defendant in Error.*